

EXHIBIT 10
ONTANEDA
TRANSCRIPT

[Page 1]
March 1, 2024

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
KEVIN CAMPBELL,

PLAINTIFF,

-against-

Case No:
1:22-CV-07662

FEDERAL EXPRESS CORPORATION A/K/A FEDEX
EXPRESS, AND ERIC WANDERS, INDIVIDUALLY,

DEFENDANTS.

-----X

DATE: March 1, 2024
TIME: 10:12 A.M.

DEPOSITION of a Non-Party
Witness, FRANK ONTANEDA, taken by the
Plaintiff, pursuant to Notice and to the
Federal Rules of Civil Procedure, held via
Zoom videoconference, before Paul R.
Harris, a Notary Public of the State of New
York.

A P P E A R A N C E S:

MASSIMI LAW, PLLC

Attorney for the Plaintiff

99 Wall Street, Suite 1264

New York, New York 10005

BY: JESSICA MASSIMI, ESQ.

GABRIEL P. McGAHA, ESQ.

SENIOR COUNSEL AT FEDERAL EXPRESS

Attorney for the Defendants

3620 Hacks Cross Road

Building B, 3rd Floor

Memphis, Tennessee 38125

BY: GABRIEL P. McGAHA, ESQ.

ALSO PRESENT:

Sharon Daniel

* * *

(1)

(2)

(3) F E D E R A L S T I P U L A T I O N S

(4)

(5)

(6) IT IS HEREBY STIPULATED AND AGREED by and
(7) between (among) counsel for the respective
(8) parties herein, that filing and sealing be
(9) and the same are hereby waived.

(10) IT IS FURTHER STIPULATED AND AGREED that
(11) all objections, except as to the form of
(12) the question, shall be reserved to the time
(13) of the trial.

(14) IT IS FURTHER STIPULATED AND AGREED that
(15) the within deposition may be sworn to and
(16) signed before any officer authorized to
(17) administer an oath, with the same force and
(18) effect as if signed and sworn to before the
(19) Court.

(20)

(21) * * * *

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(1)
(2) IT IS HEREBY STIPULATED AND AGREED by and
(3) between counsel for all parties present
(4) that this deposition is being conducted by
(5) Videoconference, that the Court Reporter,
(6) all counsel, and the witness are all in
(7) separate remote locations and participating
(8) via Videoconference (LegalView/Zoom/WebEx)
(9) meeting under the control of Lexitas Court
(10) Reporting Service, that the officer
(11) administering the oath to the witness said
(12) witness shall be sworn in remotely by the
(13) Court Reporter after confirming the
(14) witness's identity, that this
(15) Videoconference will not be recorded in any
(16) manner, and that any recording without the
(17) express written consent of all parties
(18) shall be considered unauthorized, in
(19) violation of law, and shall not be used for
(20) any purpose in this litigation or
(21) otherwise.
(22) IT IS FURTHER STIPULATED that exhibits may
(23) be marked by the attorney presenting the
(24) exhibit to the witness, and that a copy of
(25) any exhibit presented to a witness shall be

(1)
(2) emailed to or otherwise in possession of
(3) all counsel prior to any questioning of a
(4) witness regarding the exhibit in question.
(5) All parties shall bear their own costs in
(6) the conduct of this deposition by
(7) Videoconference.

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(1) F. ONTANEDA

(2) F R A N K O N T A N E D A, called as a
(3) witness, having been first duly sworn by a
(4) Notary Public of the State of New York, was
(5) examined and testified as follows:

(6) EXAMINATION BY

(7) **MS. MASSIMI:**

(8) Q. Please state your name for the
(9) record.

(10) **A. Frank Ontaneda.**

(11) Q. What is your address?

(12) **A. 58-60 55th Drive, Maspeth, New**
(13) **York 11378.**

(14) **MS. MASSIMI: It's my**
(15) **understanding that the witness just**
(16) **provided his business address. I**
(17) **have no problem with that as long as**
(18) **the witness is willing to agree to**
(19) **allow his attorney to accept service**
(20) **of a trial subpoena should this case**
(21) **go to trial. Is that okay with you,**
(22) **sir?**

(23) **A. Yes.**

(24) Q. Okay. Great. Okay.

(25) Your name is Frank Ontaneda.

(1) F. ONTANEDA

(2) Am I pronouncing your last name correctly?

(3) **A. Yes, you are.**

(4) Q. Good morning, Mr. Ontaneda. My
(5) name is Jessica Massimi, I am an attorney.
(6) I represent the plaintiff Kevin Campbell in
(7) the case that we're here to discuss today.

(8) The purpose of this deposition
(9) is for me to ask you questions about the
(10) incidents giving rise to this lawsuit.
(11) I'll ask a series of questions, and the
(12) court reporter will take down my questions,
(13) your answers and anything that gets said on
(14) the record. Because the court reporter is
(15) taking down everything that gets said, this
(16) is not like a normal conversation so there
(17) cannot be any cross-talk because the court
(18) reporter can't take down two people
(19) speaking at once. For that reason, even if
(20) you can anticipate what my question is
(21) going to be, I ask that you let me finish
(22) my complete question before you begin to
(23) answer so that the court reporter can take
(24) down my complete question and your complete
(25) answer. For the same reason, I will let

(1) F. ONTANEDA

(2) you finish your answer before I ask my next
(3) question. Does that make sense?

(4) **A. Yes, it does.**

(5) Q. Because the court reporter has
(6) to take down everything that gets said here
(7) today we all have to keep our voices up.
(8) Speaking too quietly, unfortunately, just
(9) will prolong this unnecessarily because we
(10) have to ask people to repeat things. So we
(11) just need to keep our voices up as we are
(12) going through this proceeding.

(13) Because the court reporter has
(14) to take down everything that gets said, you
(15) cannot answer questions using nods or
(16) shakes of the head or by using hand
(17) gestures or by saying uh-huh or huh-uh or
(18) things like that because the court reporter
(19) cannot interpret those for the record. Do
(20) you understand?

(21) **A. Yes, I do.**

(22) Q. If you don't understand a
(23) question that I ask, let me know and I will
(24) attempt to rephrase the question. If you
(25) don't hear part of a question, let me know

(1) F. ONTANEDA

(2) and I will restate the question. If you
(3) realize during the deposition that an
(4) earlier answer you gave was inaccurate or
(5) incomplete, let me know, we can go on the
(6) record and correct it.

(7) If you need a break at any
(8) point at any point, that is fine. I just
(9) ask that you answer any pending question
(10) before you step out, meaning if I've asked
(11) a question, I ask that you answer it before
(12) you step out. Do you understand these
(13) parameters so far?

(14) **A. Yes, I do.**

(15) Q. I'm not sure if I said this,
(16) but we can revisit any portion of the
(17) deposition as we go along. If there is an
(18) answer you want to provide more information
(19) to or you want to revisit your answer
(20) because it might have been inaccurate or
(21) anything like that, let me know. We can go
(22) on the record and correct it. Do you
(23) understand that you have take and oath to
(24) tell the truth here today?

(25) **A. Yes, I do.**

(1) **F. ONTANEDA**

(2) Q. Do you understand that even
(3) though we are here over Zoom and you are in
(4) a conference room or office with your
(5) attorney, the oath you have taken to tell
(6) the truth here today is the same oath you
(7) would take as if we were in a courtroom in
(8) front of a judge?

(9) **A. Yes.**

(10) Q. Is there any reason you cannot
(11) testify truthfully, fully and accurately
(12) here today?

(13) **A. Uh, no.**

(14) Q. No?

(15) **A. No, no.**

(16) Q. Do you have any physical or
(17) mental condition that might keep you from
(18) testifying truthfully, fully and
(19) accurately?

(20) **A. No.**

(21) Q. Have you taken any sort of
(22) medication that might impact your ability
(23) to testify?

(24) **A. No.**

(25) Q. Have you consumed any alcohol,

(1) F. ONTANEDA

(2) drugs or marijuana in the last 24 hours?

(3) A. No.

(4) Q. Have you taken any prescription
(5) medication in the last 24 hours?

(6) A. No.

(7) Q. Have you failed to take any
(8) medication that you normally take?

(9) A. No.

(10) Q. Are you usually awake this time
(11) of day?

(12) A. Yes.

(13) Q. Did you get enough sleep last
(14) night?

(15) A. Yes.

(16) Q. Are you represented by an
(17) attorney today?

(18) A. Yes, I am.

(19) Q. What is your attorneys's name?

(20) A. Gabriel. I don't know how to
(21) pronounce his last name. McGaha.

(22) Q. Have you ever been deposed
(23) before?

(24) A. I don't recall. No.

(25) Q. Do you understand what a

(1) F. ONTANEDA

(2) deposition is?

(3) **A. Yes.**

(4) Q. Okay.

(5) So like this scenario with a
(6) court reporter, have you ever been through
(7) this before that you know of?

(8) **A. No. No.**

(9) Q. Have you ever testified in
(10) court before?

(11) **A. No.**

(12) Q. Have you -- have you ever
(13) testified under oath before?

(14) **A. No.**

(15) Q. Have you ever sued anyone?

(16) **A. No.**

(17) Q. Have you ever been sued?

(18) **A. No.**

(19) Q. Okay.

(20) Did you meet with Mr. McGaha in
(21) preparation for today's deposition?

(22) **A. Yes.**

(23) Q. How many times?

(24) **A. Twice.**

(25) Q. When was the first meeting?

(1) F. ONTANEDA

(2) **A. Last week.**

(3) Q. How was that meeting conducted?
(4) Was it in person, over Zoom, over the phone
(5) or something else?

(6) **A. In person.**

(7) Q. How long did that meeting last?

(8) **A. Thirty minutes.**

(9) Q. Was anyone else present for
(10) that meeting?

(11) **A. No.**

(12) Q. Have you consulted with any
(13) other attorneys in connection with this
(14) lawsuit?

(15) **A. No.**

(16) Q. During that meeting last week
(17) with Mr. McGaha, did you review any
(18) documents in preparation for today's
(19) deposition?

(20) **A. No.**

(21) Q. Did you review -- during that
(22) meeting with Mr. McGaha last week, did you
(23) review any audio or video recordings in
(24) preparation for today's deposition?

(25) **A. No.**

(1) **F. ONTANEDA**

(2) Q. When was the second meeting
(3) with Mr. McGaha?

(4) **A. This morning.**

(5) Q. How long was that meeting?

(6) **A. Twenty -- 20 minutes, 20 to 30**
(7) **minutes.**

(8) Q. During that meeting, did you
(9) review any documents, video or audio
(10) recordings in preparation for today's
(11) deposition?

(12) **A. No.**

(13) Q. Have you reviewed any documents
(14) in preparation for today?

(15) **A. No.**

(16) Q. Have you reviewed any portion
(17) of any document in preparation for today?

(18) **A. No.**

(19) Q. You know -- you're aware that
(20) you're not a defendant in this case,
(21) correct?

(22) **A. Yes.**

(23) Q. Are you aware as to whether
(24) Mr. Campbell mentioned you in his complaint
(25) that he filed commencing this lawsuit?

(1) F. ONTANEDA

(2) A. I believe that's why I'm here,
(3) right?

(4) Q. Okay.

(5) So do you know that based on
(6) anything you've read?

(7) A. No.

(8) Q. Do you have any nicknames?

(9) A. I do not.

(10) Q. What -- what's your middle
(11) name?

(12) A. James.

(13) Q. Have you been known by any
(14) names other than your current name?

(15) A. No.

(16) Q. Where were you born?

(17) A. In Queens, New York.

(18) Q. Where in Queens?

(19) A. South Ozone Park.

(20) Q. South Ozone Park?

(21) A. Yes.

(22) Q. Is that where you grew up?

(23) A. I grew up in Hollis, Hollis,
(24) New York.

(25) Q. Okay.

(1) F. ONTANEDA
(2) Where do you currently live?
(3) **A. I live in Lynbrook, New York.**
(4) Q. Can you just speak up a little
(5) bit?
(6) **A. I said Lynbrook, New York.**
(7) Q. Okay. Thank you.
(8) **A. No problem.**
(9) Q. What is your race?
(10) **A. I'm Hispanic.**
(11) Q. What race or races are your
(12) parents?
(13) **A. Hispanic.**
(14) Q. Are you married?
(15) **A. I'm engaged.**
(16) Q. Congratulations.
(17) **A. Thank you.**
(18) Q. What is your fiance's race?
(19) **A. She's Hispanic.**
(20) Q. Have you ever been married
(21) before?
(22) **A. No, I have not.**
(23) Q. Do you have any kids?
(24) **A. Yes.**
(25) Q. How many kids?

(1) F. ONTANEDA

(2) A. I have one -- one daughter.

(3) Q. What is your daughter's race?

(4) A. She's Hispanic.

(5) Q. Do you owe child support?

(6) A. Yes.

(7) Q. Okay.

(8) Do you have any disabilities of
(9) which FedEx is aware?

(10) A. No.

(11) Q. Have you ever requested any
(12) reasonable accommodation for any disability
(13) during your employment with FedEx?

(14) A. No.

(15) Q. Have you ever complained of any
(16) type of discrimination at FedEx?

(17) A. No.

(18) Q. Have you ever been convicted of
(19) a felony?

(20) A. No.

(21) Q. Have you ever been convicted of
(22) a misdemeanor?

(23) A. Yes.

(24) Q. When was that conviction?

(25) A. 2001, maybe.

(1) **F. ONTANEDA**

(2) Q. Were you convicted after a jury
(3) trial or did you plead guilty or something
(4) else?

(5) **A. I don't recall.**

(6) Q. Do you recall what charges you
(7) pleaded to?

(8) **A. No, I don't.**

(9) Q. How old are you?

(10) **A. I'm 45.**

(11) **MR. McGAHA: Speak up.**

(12) **A. 45 years old.**

(13) Q. Do you know whether, regarding
(14) that misdemeanor conviction, the charges
(15) related to any crime involving dishonesty
(16) --

(17) **A. No.**

(18) Q. -- or truthfulness?

(19) **A. No.**

(20) Q. Okay. During those
(21) proceedings, were you ever found to have
(22) been -- never mind. Okay.

(23) Have you ever served time in
(24) prison before?

(25) **A. No.**

(1) **F. ONTANEDA**

(2) Q. What -- what is the
(3) jurisdiction of that misdemeanor
(4) conviction?

(5) A. Nassau.

(6) MS. MASSIMI: Okay. So we can
(7) do this -- I just want to ask some
(8) questions about the misdemeanor. We
(9) can mark this portion of the
(10) transcript confidential or I can
(11) follow up with interrogatories. I
(12) just want to get some more
(13) information about what the -- about
(14) what you were charged with.

(15) Can we do that on the record
(16) and mark this confidential? I mean,
(17) technically speaking, if you were
(18) convicted this is not sealed, so I
(19) just want to make sure that this is
(20) not something involving dishonesty or
(21) deceit. And I understand that you're
(22) saying it wasn't, but sometimes it's
(23) not necessarily clear so I would like
(24) to ask you some questions about that.

(25) So, Mr. McGaha, can we just

(1) **F. ONTANEDA**
(2) **mark this confidential and I can ask**
(3) **him some questions or --**

(4) **MR. McGAHA: Yes.**

(5) **MS. MASSIMI: I'm sorry?**

(6) **MR. McGAHA: Yes.**

(7) **MS. MASSIMI: Okay. Great.**

(8) **Thank you.**

(9) **Yeah. You can just mark this**
(10) **portion of the transcript**
(11) **confidential. And my understanding**
(12) **is that it can't then be publicly**
(13) **filed and it can't be used in any**
(14) **other litigation.**

(15) **(Whereupon, an off-the-record**
(16) **discussion was held.)**

(17) **Q. I am not asking you, like, what**
(18) **happened regarding this underlying incident**
(19) **that led to the conviction, but what --**
(20) **generally speaking, what were the charges?**
(21) **Do you recall? I'm not asking you to**
(22) **recite the penal code, but what were you**
(23) **accused of doing?**

(24) **A. It was an impairment charge.**

(25) **Q. Oh, okay. Like driving?**

(1) F. ONTANEDA

(2) A. Yes.

(3) Q. Okay. That was it?

(4) A. That's it.

(5) MS. MASSIMI: Okay. I don't
(6) have any other questions. You can --
(7) we're not going -- it's no longer
(8) confidential. I'm just going to ask
(9) him further questions about something
(10) else.

(11) Q. Have you ever been
(12) court-ordered to attend any anger
(13) management or counseling classes?

(14) A. No.

(15) Q. Have you ever been
(16) court-ordered to attend any drug or alcohol
(17) treatment or counseling?

(18) A. No.

(19) Q. You said you have never been
(20) sued; is that correct?

(21) A. Correct.

(22) Q. But you owe child support, but
(23) you haven't been sued?

(24) A. Correct. I'm up to speed with
(25) my child support.

(1) **F. ONTANEDA**

(2) Q. Oh, okay. So you owe -- you
(3) owe child support, but you pay your child
(4) support?

(5) **A. I do pay my child support, yes.**

(6) Q. Okay. So your not in arrears
(7) on your child support?

(8) **A. I am not.**

(9) Q. Okay.
(10) What is your highest level of
(11) education?

(12) **A. Uh, a semester in college.**

(13) Q. Do you have your high school
(14) diploma or do you have a GED or something
(15) else?

(16) **A. I have a high school -- high**
(17) **school diploma.**

(18) Q. From which school?

(19) **A. Martin Van Buren.**

(20) Q. Where is that located?

(21) **A. In Queens Village, Queens.**

(22) Q. From which institution do you
(23) have a semester of college?

(24) **A. Queens Community College.**

(25) Q. Are those credits -- in what

(1) F. ONTANEDA

(2) area of study are those credits?

(3) **A. Business management.**

(4) Q. Do you have any plans to attain
(5) any further college credits?

(6) **A. No.**

(7) Q. Do you have any professional
(8) degrees or licenses?

(9) **A. I don't.**

(10) Q. Are you currently employed?

(11) **A. Yes.**

(12) Q. Who is your employer?

(13) **A. FedEx.**

(14) Q. How long have you been employed
(15) by FedEx?

(16) **A. Uh, 23 years.**

(17) Q. What's your current title?

(18) **A. Operations manager.**

(19) Q. How long have you had that
(20) title?

(21) **A. Close to nine years.**

(22) Q. What location do you work at?

(23) **A. The Maspeth, New York location.**

(24) Q. The LGA station?

(25) **A. Yes, the LGA station.**

(1) **F. ONTANEDA**

(2) Q. How long have you been working
(3) at that location?

(4) **A. About five years.**

(5) Q. Beginning in 2019,
(6) approximately?

(7) **A. The ending of 2018.**

(8) Q. Okay, ending 2018.

(9) When you joined FedEx, what was
(10) your title?

(11) **A. I was a courier DLT.**

(12) Q. How long did you have that
(13) title?

(14) **A. Uh, three -- I'm sorry.**
(15) **Fourteen years.**

(16) Q. Was there a specific location
(17) you worked out of during that 14-year
(18) period?

(19) **A. I worked in two locations.**

(20) Q. What was the first location?

(21) **A. FRGA.**

(22) Q. How long did you work at that
(23) location?

(24) **A. Roughly four years.**

(25) Q. What happened at the end of

(1) F. ONTANEDA

(2) that four years?

(3) A. I transferred to another
(4) location.

(5) Q. What location?

(6) A. WTCA.

(7) Q. How long were you at that
(8) location?

(9) A. Twelve to fourteen years,
(10) maybe.

(11) Q. Okay.

(12) Did you become a manager while
(13) you were at that location?

(14) A. Yes, I had.

(15) Q. You became a manager at the WTC
(16) --

(17) A. The WTC location.

(18) Q. At end of that 12 to 14 years
(19) at the WTCA station, did you start working
(20) at another location?

(21) A. Can you repeat that? I'm
(22) sorry.

(23) Q. Yeah. At the end of the WTCA
(24) -- at the end of your time at the WTCA
(25) station, did you start working at another

(1) F. ONTANEDA

(2) location?

(3) A. Yes.

(4) Q. What is the name of that
(5) location?

(6) A. LGA station.

(7) Q. Have you been at the LGA
(8) station continuously since you started
(9) working there?

(10) A. Yes.

(11) Q. And you've been a manager the
(12) whole time?

(13) A. Yes.

(14) Q. Have you ever been suspended
(15) from your employment with FedEx?

(16) A. Yes.

(17) Q. How many times?

(18) A. Once.

(19) Q. When was that suspension?

(20) A. 2002 -- one. 2001, 2002.

(21) Q. Was that a suspension without
(22) pay?

(23) A. I don't remember.

(24) Q. Do you recall what that
(25) suspension was for?

(1) F. ONTANEDA

(2) A. It was for the impairment
(3) charge.

(4) Q. The charge that you mentioned
(5) related to the misdemeanor, did that have
(6) anything to do with your FedEx employment?

(7) A. Repeat that. I'm sorry.

(8) Q. Did the circumstances giving
(9) rise to that charge occur when you were on
(10) the clock?

(11) A. No.

(12) Q. But you reported it to FedEx?

(13) A. Yes.

(14) Q. And then they suspended you for
(15) a period of time?

(16) A. Yes.

(17) Q. Okay.

(18) How long was that suspension,
(19) do you remember?

(20) A. I don't.

(21) Q. Is that the only suspension you
(22) have received during your time with FedEx?

(23) A. That I recall, yes.

(24) Q. During your time with FedEx,
(25) have you had any other employers?

(1) F. ONTANEDA

(2) A. No.

(3) Q. During your time with FedEx,
(4) have you received a warning letter?

(5) A. Yes.

(6) Q. For what?

(7) A. Missing -- missing a can, a
(8) freight.

(9) Q. Missing -- missing a freight?

(10) A. Missing a can of freight,
(11) overlooking a can of volume, should I say.

(12) Q. Sorry. Can you just speak up a
(13) little bit?

(14) A. Overseeing a can of freight on
(15) a Saturday.

(16) Q. What does that mean?

(17) A. I was a manager and I overseen
(18) a can of volume where it was supposed to be
(19) distributed to my employees and I missed --
(20) I missed the can.

(21) Q. When you say can, what do you
(22) mean? What is that?

(23) A. A can of freight, a volume of
(24) -- of packages.

(25) Q. Like a container of packages?

(1) F. ONTANEDA

(2) **A. A container of packages, yes.**

(3) Q. What happened to that container
(4) of packages? Did it go missing, was it
(5) delivered late, something else?

(6) **A. It was delivered late.**

(7) Q. Got it. Okay. You received a
(8) warning letter for that?

(9) **A. Yes.**

(10) Q. Other than that instance, have
(11) you ever received a warning letter?

(12) **A. Through the years possibly, but**
(13) **I do not recall.**

(14) Q. Are you a member of any union?

(15) **A. The credit union, federal**
(16) **credit union.**

(17) Q. Okay. Yeah. I'm specifically
(18) referring to labor unions or --

(19) **A. No, I am not.**

(20) Q. Have you ever been a member of
(21) any labor or employment union?

(22) **A. No.**

(23) Q. Are you a member or have you
(24) ever been a member of law enforcement?

(25) **A. No.**

(1) **F. ONTANEDA**

(2) Q. Have you ever served in any
(3) branch of the military?

(4) **A. No.**

(5) Q. Are you a member of any
(6) churches?

(7) **A. No.**

(8) Q. Do you do any volunteer or
(9) charity work outside of your employment
(10) with FedEx?

(11) **A. No.**

(12) Q. Can you define discrimination?

(13) **A. Prejudice or unjust treatment**
(14) **to a -- to a group.**

(15) Q. Do you know whether
(16) discrimination can occur against an
(17) individual?

(18) **A. Yes.**

(19) Q. So for something to be
(20) discrimination, it doesn't have to be
(21) necessarily directed at a group of people?

(22) **A. Yes.**

(23) Q. Okay.

(24) Can you define retaliation?

(25) **A. It's when an action is done**

(1) **F. ONTANEDA**

(2) **towards a person and you react to it.**

(3) Q. Do you know whether FedEx has
(4) rules prohibiting race discrimination?

(5) **A. Repeat that.**

(6) Q. Do you know whether FedEx has
(7) rules prohibiting race discrimination?

(8) **A. Do we have rules?**

(9) Q. Yes.

(10) **A. Yes.**

(11) Q. What's your understanding of
(12) what those rules require or what those
(13) rules say?

(14) **A. Can't -- can't answer that. I**
(15) **don't know how to answer that.**

(16) Q. Do you know whether FedEx has a
(17) zero tolerance policy for race
(18) discrimination?

(19) **A. They have a zero tolerance,**
(20) **yes.**

(21) Q. What does that mean to have a
(22) zero tolerance policy for something?

(23) **A. We don't condone it.**

(24) Q. Okay.

(25) Does FedEx terminate every

(1) F. ONTANEDA

(2) employee who is found to have engaged in
(3) inappropriate racial comments?

(4) **A. It depends.**

(5) Q. So since it depends, is it
(6) accurate that not every individual who has
(7) been found to engage in racial comments is
(8) terminated?

(9) **A. Well, it depends. We**
(10) **investigate and we follow up with HR.**

(11) Q. And if a person who is alleged
(12) to have made racially inappropriate
(13) comments or if a person who you are
(14) investigating or HR is investigating is
(15) found to have made racially inappropriate
(16) comments, must they be terminated or are
(17) there other levels of discipline?

(18) **A. Again, we investigate and we**
(19) **gather resources.**

(20) Q. And what happens at the end of
(21) that investigation? Is a determination
(22) made?

(23) **A. At the end of the**
(24) **investigation, yes.**

(25) Q. And there are times where a

(1) F. ONTANEDA

(2) determination may be made that a person
(3) engaged in inappropriate racial comments,
(4) correct?

(5) **A. Yes.**

(6) Q. If such a determination is
(7) made, what are some of the consequences
(8) that might be directed towards that person?

(9) **A. Well, it's a process. It could**
(10) **be suspension depending on the scenario.**

(11) Q. It's not always termination,
(12) correct?

(13) **A. Again, we investigate. It's**
(14) **not --**

(15) Q. Have you ever participated in
(16) racial jokes or banter at FedEx?

(17) **A. No.**

(18) Q. Do you -- have you are
(19) witnessed FedEx employees or managers
(20) engaging in racial jokes or banter?

(21) **A. No.**

(22) Q. Have you ever heard any FedEx
(23) employee or manager making inappropriate
(24) remarks?

(25) **A. No.**

(1) **F. ONTANEDA**

(2) Q. Have you ever heard any FedEx
(3) employee or manager using inappropriate
(4) language, such as cursing or swearing?

(5) **A. No.**

(6) Q. Have you ever heard any FedEx
(7) manager raise their voice?

(8) **A. Nothing that sticks out, no.**

(9) Q. Have you ever cursed or used
(10) swear words at work?

(11) **A. I mean, through the years,**
(12) **privately probably snuck out but nothing --**
(13) **never towards an employee.**

(14) Q. As a manager, do you know
(15) whether there is any handbook that sets
(16) forth any guidelines that applies to your
(17) position?

(18) **A. Yes.**

(19) Q. Does that -- does that -- do
(20) those guidelines have any name?

(21) **A. I would have to see the book.**

(22) Q. What is the name of the book
(23) you're referring to?

(24) **A. FedEx handbook.**

(25) Q. That handbook applies to

(1) F. ONTANEDA

(2) managers and employees?

(3) A. Yes.

(4) Q. I'm sorry, managers and
(5) couriers?

(6) A. Yes.

(7) Q. Is there any other materials or
(8) collection of materials not contained in
(9) the handbook that apply to the management
(10) position?

(11) A. Yes.

(12) Q. What are those called?

(13) A. It's policies that we have.

(14) Q. FedEx written policies?

(15) A. Yes.

(16) Q. Are those policies contained in
(17) the handbook that you referred to?

(18) A. I don't know.

(19) Q. As a manager, have you ever had
(20) occasion to reference those policies, to
(21) have to look up those policies?

(22) A. Yes.

(23) Q. When you do that, how do you do
(24) that? Do you look at them in a book, hard
(25) copy paper format, on a computer, something

(1) F. ONTANEDA

(2) else?

(3) A. We refer to HR, and they give
(4) us direction depending on the scenario.

(5) Q. I'm sorry?

(6) A. Depending on the scenario.

(7) Q. But do you ever personally take
(8) a look at the policies, the written
(9) policies?

(10) A. Yes.

(11) Q. For what purpose?

(12) A. If I have to document an
(13) employee, I refer to a document and I refer
(14) to HR as well.

(15) Q. Do you know Nan Malabbranch
(16) (phonetic)?

(17) A. Yes.

(18) Q. Have you ever met her in
(19) person?

(20) A. Yes.

(21) Q. What race does Nan Malabbranch
(22) appear to be to you?

(23) A. White.

(24) Q. Do you know what race she is?

(25) A. She's white.

(1) **F. ONTANEDA**

(2) Q. How many times have you met Nan
(3) Malabbranch?

(4) **A. Several occasions, we have**
(5) **family gatherings -- I'm sorry, family**
(6) **functions, basketball tournaments.**

(7) Q. FedEx stuff where families
(8) join?

(9) **A. Correct, yes.**

(10) Q. Do you have any personal social
(11) relationship with Nan Malabbranch?

(12) **A. I do not.**

(13) Q. Do you know the name of the
(14) plaintiff in this case?

(15) **A. Kevin Campbell.**

(16) Q. Have you ever been Kevin
(17) Campbell's manager?

(18) **A. No.**

(19) Q. Have you ever worked with Kevin
(20) Campbell?

(21) **A. Directly, no.**

(22) Q. Indirectly?

(23) **A. Not that I recall.**

(24) Q. Have you ever --

(25) (Whereupon, there was a Zoom

(1) F. ONTANEDA

(2) technicality.)

(3) Q. What are some of the
(4) circumstances under which you have
(5) encountered him at the LGA station at work?

(6) A. If I had to cover -- so I cover
(7) a work group and he -- he's is a splitter.
(8) And if he's not there, maybe I'll try to
(9) look for him and get him in position.

(10) Q. I'm sorry. Can you say that
(11) again. I can't -- speak up a little bit,
(12) sir?

(13) A. Yes. So let's say I'm covering
(14) a work group. He is a splitter where I
(15) cover a work group, and if he's not in
(16) position, I will try to locate him to get
(17) him in position. I don't have much -- I
(18) didn't much encounters with him.

(19) Q. Are you saying you covered a
(20) work group of which he was a part?

(21) A. No, my work group. The work
(22) group that I cover, his position is right
(23) next to it.

(24) Q. Can you just explain that to me
(25) please?

(1) F. ONTANEDA

(2) A. So, as a splitter, I cover a
(3) certain belt. I'm sorry. I cover a
(4) certain belt, and he was a splitter on that
(5) belt. If he was not in position, I would
(6) try to locate him to get him in position
(7) because it impacted --

(8) Q. Please proceed. It impacted?

(9) A. I'm sorry. Impacted the belt
(10) if there was no one in that position.

(11) Q. How many instances would you
(12) have to locate him?

(13) A. Not many times, maybe a handful
(14) that I recall.

(15) Q. On those instances where you
(16) had to locate him, what do you mean by
(17) that? Where was he? Was he on the belt in
(18) a different position? Was he out to lunch?
(19) Was he --

(20) A. No, maybe getting his
(21) equipment.

(22) Q. Is that something you had to do
(23) for other splitters is locate them and tell
(24) them to get to the correct position, or was
(25) that just something you just had to do for

(1) F. ONTANEDA

(2) Mr. Campbell?

(3) A. I would do it for whoever is
(4) not in position. Yes, I would do it for
(5) numerous people.

(6) Q. Is that -- is that just
(7) something that happened from time to time
(8) with the splitters?

(9) A. Yes.

(10) Q. What type of employee would you
(11) -- well, does Mr. Campbell still work for
(12) FedEx?

(13) A. I'm sorry?

(14) Q. Does Mr. Campbell still work
(15) for FedEx?

(16) A. No.

(17) Q. What type of employee was he
(18) based on your limited interactions with
(19) him?

(20) A. Good employee.

(21) Q. On those instances where you
(22) tried to tell him to get back into position
(23) or where he was supposed to be, do you
(24) recall how he would respond to you?

(25) A. Don't recall, no.

(1) **F. ONTANEDA**

(2) Q. Did he typically listen to you
(3) when you told him to do something?

(4) **A. Yes.**

(5) Q. What was your impression of his
(6) personality based on the limited
(7) interactions that you had with him?

(8) **A. I don't know him. I don't know**
(9) **-- he's a good employee.**

(10) Q. Right. I am not suggesting
(11) that you know him beyond what you are
(12) claiming here today. I am just asking
(13) about your impressions of him. That's all.
(14) Did you form any impressions of him based
(15) on your limited --

(16) **A. No, I don't know him. I mean,**
(17) **he's a good employee.**

(18) Q. Did he ever give you a hard
(19) time?

(20) **A. No.**

(21) Q. Do you -- did you find him to
(22) be truthful?

(23) **MR. McGAHA: Object to form.**

(24) **A. I feel that he is untruthful**
(25) **based on what -- why I'm here.**

(1) **F. ONTANEDA**

(2) Q. Let's talk about that
(3) because -- what's your understanding of why
(4) you're here?

(5) **A. I have to answer a couple**
(6) **questions pertaining to what happened.**

(7) Q. You don't have to talk to me
(8) about any conver- -- you don't have to tell
(9) me about stuff that you have spoken about
(10) with your attorney, but do you -- what is
(11) your understanding of why you are here
(12) without telling me about any conversations
(13) you had with your attorney?

(14) **A. I believe it pertains to an**
(15) **interaction with Campbell and Peter**
(16) **Lorenzi.**

(17) Q. And it's your understanding
(18) that Mr. Campbell is being untruthful about
(19) that interaction?

(20) **A. No.**

(21) Q. Why are you saying that
(22) Mr. Campbell is untruthful?

(23) **A. Because allegations towards me.**

(24) Q. What allegations do you believe
(25) he is being untruthful about towards you?

(1) F. ONTANEDA

(2) A. He claimed that I told him not
(3) to write a statement, and that's untrue.

(4) Q. That is very specific. That's
(5) a very specific allegation that he's
(6) making, correct?

(7) A. Yes.

(8) Q. And you are saying that that
(9) allegation is untrue, correct?

(10) A. Yes.

(11) Q. Other than that allegation,
(12) that specific allegation that you are
(13) saying is untrue, have you ever known Kevin
(14) Campbell to be untruthful about anything?

(15) A. No.

(16) Q. Do you know whether Kevin
(17) Campbell, during his employment with FedEx,
(18) had a reputation for being untruthful?

(19) A. I don't know.

(20) Q. Do you know or did you ever
(21) hear -- did you ever hear anything about
(22) Kevin Campbell being untruthful during his
(23) employment with FedEx?

(24) A. It only pertained to what's
(25) done with me. I don't know.

(1) **F. ONTANEDA**

(2) Q. Have you ever heard Kevin
(3) Campbell referred to as a snitch?

(4) **A. No, I have not.**

(5) Q. What is your understanding of
(6) what a snitch is? What's a snitch?

(7) **A. That's when you tell on**
(8) **someone, when you tell on someone.**

(9) Q. Do you believe that someone is
(10) a snitch if they complain of discrimination
(11) at work?

(12) **A. Depends on the context. I**
(13) **don't -- I don't know how to answer that.**

(14) Q. Do you know why Kevin Campbell
(15) is no longer employed at FedEx?

(16) **A. I don't know exactly, no.**

(17) Q. Well, what's your -- what's
(18) your understanding, if any, of why he's no
(19) longer there?

(20) **A. I don't know. I wasn't**
(21) **involved in that.**

(22) Q. I'm not suggesting you were
(23) involved. I'm asking if you ever heard why
(24) he is no longer there?

(25) **A. No.**

(1) **F. ONTANEDA**

(2) Q. Do you know Augusto Alsate
(3) (phonetic)?

(4) **A. He was an employee of FedEx.**

(5) Q. Were you his manager?

(6) **A. No.**

(7) Q. Do you know who was?

(8) **A. I don't recall.**

(9) Q. Did you ever interact with
(10) Augusto at FedEx when he was employed
(11) there?

(12) **A. Yes.**

(13) Q. Can you describe your
(14) interactions with Mr. Alsate?

(15) **A. Good employee.**

(16) Q. Anything else?

(17) **A. No.**

(18) Q. Can you describe Mr. Alsate's
(19) temperament?

(20) **A. I don't know.**

(21) Q. Do you know why Mr. Alsate is
(22) no longer employed with FedEx?

(23) **A. I don't know.**

(24) Q. Do you know whether Mr. Alsate
(25) was ever accused of pulling a weapon during

(1) F. ONTANEDA

(2) an encounter with Mr. Campbell?

(3) **A. I was not there. I don't know.**

(4) Q. I'm not asking if you were
(5) there. I'm asking if you ever heard about
(6) that?

(7) **A. Uh, yes, I heard about it.**

(8) Q. When did you hear about it?

(9) **A. I don't remember.**

(10) Q. Was it this year, last year,
(11) the year before, something else?

(12) **A. I can't give you an exact. I**
(13) **don't know.**

(14) Q. How did you hear about
(15) Mr. Alsate pulling a weapon during an
(16) encounter with Mr. Campbell?

(17) **A. What was the question again?**
(18) **I'm sorry.**

(19) Q. How did you hear about
(20) Mr. Alsate pulling a weapon during an
(21) encounter with Mr. Campbell?

(22) **A. All I know is there was a**
(23) **suspension. That's all I really know about**
(24) **the encounter.**

(25) Q. How did you hear about that?

(1) F. ONTANEDA

(2) A. I guess we were at maybe the
(3) manager meeting, I don't know. I don't
(4) recall.

(5) Q. Do you recall what was said in
(6) this manager meeting regarding Alsate?

(7) A. I don't recall.

(8) Q. Do you know what Mr. Campbell
(9) is suing for in this lawsuit?

(10) A. Specifically, no.

(11) Q. Do you know what he is
(12) alleging?

(13) A. I can only speak on what he is
(14) alleging with me.

(15) Q. You are not a defendant, right?

(16) A. No.

(17) Q. Who are the defendants in this
(18) lawsuit? Do you know?

(19) A. Campbell and FedEx.

(20) Q. Campbell is the plaintiff,
(21) right?

(22) A. Right. Then it's FedEx, yes.

(23) Q. FedEx. And then, do you know
(24) whether Eric Wanders is a defendant?

(25) A. Yes.

(1) **F. ONTANEDA**

(2) Q. Do you know whether Campbell is
(3) alleging that FedEx discriminated against
(4) him?

(5) **A. Yes.**

(6) Q. Do you know whether those
(7) allegations are true or false?

(8) **MR. McGAHA: Object to form.**

(9) **A. I believe towards me, yes.**

(10) Q. Towards you yes what?

(11) **A. I'm sorry. Can you repeat that**
(12) **question again?**

(13) Q. Do you know whether
(14) Mr. Campbell's allegations of employment
(15) discrimination against FedEx are true or
(16) false or something else?

(17) **A. I believe false.**

(18) Q. What do you believe is false
(19) about his allegations of discrimination
(20) against FedEx?

(21) **A. I can only speak towards what I**
(22) **am alleged of doing, so --**

(23) Q. Were you present for the
(24) incident involving Mr. Campbell and
(25) Mr. Alsate that led to their terminations?

(1) F. ONTANEDA

(2) **A. No.**

(3) Q. Do you know what FedEx is
(4) claiming Mr. Campbell did during that
(5) encounter with Mr. Alsate?

(6) **A. No, I don't know.**

(7) Q. Did anyone ever tell you how
(8) that altercation started?

(9) **A. No.**

(10) Q. Did Mr. Campbell ever mention
(11) anything to you about discrimination he was
(12) experiencing?

(13) **A. Only when Peter Lorenzi -- only**
(14) **with Peter Lorenzi.**

(15) Q. What did Mr. Campbell tell you?

(16) **A. I can't -- I don't remember**
(17) **exactly, but he brought to my attention**
(18) **something that happened.**

(19) Q. When you say he brought to your
(20) attention, do you remember what he did?

(21) **A. Exactly -- I don't remember**
(22) **exactly. I do remember he felt**
(23) **uncomfortable and I investigated.**

(24) Q. What -- did you reach any
(25) conclusions at the end of your

(1) F. ONTANEDA

(2) investigation into Mr. Campbell's
(3) complaints against Peter Lorenzi?

(4) **A. Did I reach a conclusion?**

(5) Q. Yeah.

(6) **A. Well, I referred to you know**
(7) **HR, I consulted with my senior manager for**
(8) **direction, and then, based on our**
(9) **resources, yes.**

(10) Q. What conclusions did you reach?

(11) **A. From what I recall, it was a --**
(12) **Peter Lorenzi was suspended and he received**
(13) **a warning letter.**

(14) Q. Whose decision was it to issue
(15) Peter Lorenzi the warning letter?

(16) **A. My decision.**

(17) Q. Why did you make the decision
(18) to issue Peter Lorenzi the warning letter?

(19) **A. Based on my resources and**
(20) **interaction with HR.**

(21) Q. Do you know whether -- I can
(22) just show this -- just show you the
(23) complaint. It's fine.

(24) I'm going to drop this in the
(25) chat, Plaintiff's Exhibit 1.

(1) F. ONTANEDA

(2) (Whereupon, the aforementioned
(3) Complaint was marked as Plaintiff's
(4) Exhibit 1 for identification as of
(5) this date by the Reporter.)

(6) MS. MASSIMI: Mr. McGaha, you
(7) said you have the document in front
(8) of you?

(9) MR. McGAHA: Yes.

(10) MS. MASSIMI: Okay. Thank you.
(11) Can you show it to the witness as
(12) well?

(13) MR. McGAHA: He's there.

(14) MS. MASSIMI: Okay. Great.

(15) Q. Mr. Ontaneda, I'm showing you a
(16) document that we've deemed marked for
(17) purposes of today as Plaintiff's Exhibit 1.
(18) This is the complaint that Mr. Campbell
(19) filed in this case. It's an 18-page
(20) document and there's a red stamp at the top
(21) from when this was filed with the court.

(22) Do you see this document?

(23) A. Yes, I do.

(24) Q. Can you please go down to
(25) Paragraph 33 and read the content of that

(1) F. ONTANEDA

(2) paragraph and let me know when you're done?

(3) **A. Yes.**

(4) Q. Have you now had an opportunity
(5) to read Paragraph 33 of Mr. Campbell's
(6) complaint?

(7) **A. Yes.**

(8) Q. This says that Mr. Campbell
(9) complained to you of something that Peter
(10) Lorenzi said to him, correct?

(11) **A. Yes.**

(12) Q. Do you recall the complaint
(13) that Mr. Campbell made to you or what this
(14) is referring to?

(15) **A. From what I recall, it was a**
(16) **comment made by Peter Lorenzi.**

(17) Q. Do you recall what that comment
(18) was?

(19) **A. I don't recall exactly, but it**
(20) **was pertaining to Trayvon.**

(21) Q. Do you recall what your
(22) reaction was when Mr. Campbell informed you
(23) of those comments?

(24) **A. My reaction?**

(25) Q. Yes.

(1) F. ONTANEDA

(2) A. Well, I requested a statement
(3) and then I --I communicated with my senior
(4) manager.

(5) Q. Mr. Campbell was complaining to
(6) you because he thought comments that Peter
(7) Lorenzi made to him were offensive; is that
(8) fair?

(9) A. Yes.

(10) Q. Did you agree that those
(11) comments were offensive?

(12) A. I did not assume. I requested
(13) a statement.

(14) Q. Did you eventually ever reach a
(15) conclusion as to whether you believed that
(16) those statements Mr. Campbell was reporting
(17) were in fact offensive?

(18) A. Based on the communication with
(19) HR it was determined that it was wrong.

(20) Q. When you say it was determined
(21) that it was wrong, who -- did you determine
(22) that those statements were wrong?

(23) A. Yes.

(24) Q. And the statements -- well, at
(25) least one of the statements was Lorenzi

(1) F. ONTANEDA
(2) calling Campbell Trayvon; is that correct?

(3) **A. Yes.**

(4) Q. And Mr. Campbell report that to
(5) you, correct?

(6) **A. Yes.**

(7) Q. Do you know what that was
(8) referring to, what Mr. Lorenzi was
(9) referring to when he called Mr. Campbell
(10) Trayvon?

(11) **A. I believe it was -- it was**
(12) **something that was going on recently and it**
(13) **was a little -- it was pertaining to, I**
(14) **believe, racism.**

(15) Q. Okay. Okay.

(16) Do you know who Trayvon Martin
(17) is?

(18) **A. Not exactly. No, I don't --**
(19) **exactly, no.**

(20) Q. Okay.

(21) Well, when you say it was
(22) pertaining to something that was going on,
(23) what do you mean by that?

(24) **A. It was more like a -- something**
(25) **that was going on. It was a teenager who**

(1) **F. ONTANEDA**

(2) **was shot or -- I don't really -- I didn't**
(3) **watch the news that much during that time.**

(4) Q. Well, do you know -- okay. Do
(5) you know who George Floyd is?

(6) **A. Yes. It was on the news.**

(7) Q. What is your understanding of
(8) who Mr. Floyd was?

(9) **A. I don't know exactly because I**
(10) **didn't watch the news that much.**

(11) Q. When Peter Lorenzi made this
(12) statement to Mr. Campbell calling him
(13) Trayvon, Mr. Floyd had died days prior,
(14) correct?

(15) **MR. McGAHA: Object to form.**

(16) **A. I don't know.**

(17) Q. I'm just trying to get an
(18) understanding what you mean when you say
(19) that the comments were made about something
(20) that was going on. What do you mean by
(21) that? Are you -- do you know whether there
(22) were racial tensions or something of that
(23) nature? What are you referring to when you
(24) say that those statements were made in
(25) response to something going on?

(1) F. ONTANEDA

(2) A. I mean, I know that it was -- I
(3) don't know how to answer that.

(4) Q. Okay. Okay.

(5) Do you know whether -- do you
(6) recall there being demonstrations in New
(7) York City in the Summer of 2020?

(8) A. Don't know exactly.
(9) Demonstrations, maybe.

(10) Q. Do you know whether there was a
(11) curfew instituted by the New York City
(12) mayor in around the time that Peter Lorenzi
(13) made this statement?

(14) A. I don't know.

(15) Q. Do you recall there being a
(16) curfew in 2020?

(17) A. No, I don't.

(18) Q. Do you know whether there were
(19) protests beginning in the end of May of
(20) 2020 in response to something that happened
(21) with George Floyd?

(22) A. I don't know what happened with
(23) George Floyd. It was Trayvon. That's all
(24) I can really --

(25) Q. Trayvon Martin died years prior

(1) F. ONTANEDA

(2) to Peter Lorenzi making this comment,
(3) correct?

(4) **A. Yes.**

(5) Q. So I was just trying to get an
(6) understanding of what you meant when -- I
(7) think you said something like Peter Lorenzi
(8) made these statements related to something
(9) that was going on. So what is your
(10) understanding of what was going on?

(11) **A. It was more like -- I really**
(12) **don't know how to answer. I know -- I know**
(13) **Trayvon Martin was a young teenager who was**
(14) **shot, and that's all I really know. I**
(15) **don't really know. Maybe there was**
(16) **tension, but I don't know. I don't --**

(17) Q. When you say there was tension,
(18) what are you referring to?

(19) **A. I don't know how to answer that**
(20) **question.**

(21) Q. Do you mean that Peter -- Peter
(22) Lorenzi really made this statement kind of
(23) at the wrong time? Is that what you are
(24) trying to say?

(25) **MR. McGAHA: Object to form.**

(1) **F. ONTANEDA**

(2) **A. Don't know.**

(3) Q. Did you understand that to be
(4) an offensive statement, Peter Lorenzi
(5) calling Mr. Campbell Trayvon?

(6) **A. Well, Peter -- I'm sorry, Kevin**
(7) **Campbell felt offended, so I reacted to it.**

(8) Q. When Kevin Campbell reported to
(9) you what Peter Lorenzi said, about Peter
(10) Lorenzi calling him Trayvon, were there any
(11) other comments that Mr. Campbell reported
(12) to you?

(13) **A. No.**

(14) Q. Can you read the contents of
(15) Paragraph 32 of the complaint?

(16) **A. Okay.**

(17) Q. Do you see this quoted
(18) statement here that says, "Why are you
(19) washing your hands for so long? Is it
(20) because you're not used to having running
(21) water from projects?" Do you see that?

(22) **A. Yes.**

(23) Q. Did Mr. Campbell ever tell you
(24) that Peter Lorenzi said that to him?

(25) **A. No.**

(1) **F. ONTANEDA**

(2) Q. Do you believe that is an
(3) offensive statement?

(4) **A. I don't know the context of it.**

(5) Q. What -- what are the projects?

(6) **A. I don't know how to answer**
(7) **that. I don't know.**

(8) Q. Do you believe there is an
(9) inoffensive interpretation of the quoted
(10) statement in Paragraph 32?

(11) **MR. McGAHA: Object to form.**

(12) **A. I was not there. I don't know.**

(13) Q. Do you believe it's offensive
(14) or not to joke about whether someone has
(15) running water?

(16) **MR. McGAHA: Object to form.**

(17) **A. I don't understand the context.**
(18) **I don't know.**

(19) Q. If Mr. Campbell had complained
(20) to you and said that Peter Lorenzi also
(21) said this to him about not having running
(22) water in the projects, would you have
(23) considered that to be an inappropriate
(24) workplace comment?

(25) **A. If it was brought to my**

(1) **F. ONTANEDA**

(2) **attention, yes.**

(3) Q. The content of Paragraph 34,
(4) can you please read that to yourself and
(5) let me know when you're done?

(6) **A. Okay.**

(7) Q. In this paragraph, Mr. Campbell
(8) alleges you said, Let's not escalate this,
(9) let's just talk to Peter and figure it out,
(10) correct, that says that in Paragraph 34?

(11) **A. That's what it reads in 34,**
(12) **yes.**

(13) Q. Did you say that to
(14) Mr. Campbell?

(15) **A. No.**

(16) Q. What, if anything, did you say
(17) to Mr. Campbell in response to his
(18) complaint to you?

(19) **A. I had to request a statement.**
(20) **I referred to my senior manager for**
(21) **direction.**

(22) Q. I'm asking in that moment what,
(23) if anything, did you say to Kevin Campbell?
(24) So Kevin Campbell came to you with a
(25) complaint, right?

(1) F. ONTANEDA

(2) **A. Yes.**

(3) Q. Do you recall where you were
(4) when he made this complaint to you?

(5) **A. In my office.**

(6) Q. So he came into your office; is
(7) that what happened?

(8) **A. Yes.**

(9) Q. And he -- what did he say to
(10) you?

(11) **A. I don't remember exactly.**

(12) Q. Do you recall what you said, if
(13) anything, in response to him?

(14) **A. No.**

(15) Q. Do you recall if you said
(16) anything like, okay, I'll look into it,
(17) thank you for telling me, go back to work,
(18) anything like that?

(19) **A. I recall going into my boss's**
(20) **office and communicating with my boss.**
(21) **That's -- I remember communicating with my**
(22) **boss as soon as he came into my office.**

(23) Q. Who are you referring to? Eric
(24) Wanders?

(25) **A. Yes.**

(1) **F. ONTANEDA**

(2) Q. Did you speak to Eric Wanders
(3) verbally about this statement?

(4) **A. At that time he did not give me**
(5) **a statement.**

(6) Q. Well, Kevin Campbell --

(7) **A. He came into my office, he**
(8) **stood there, and I went to my senior**
(9) **manager for direction.**

(10) Q. When you say he didn't give you
(11) a statement, what do you mean?

(12) **A. It wasn't asked of him at the**
(13) **moment.**

(14) Q. When Kevin Campbell went into
(15) your office to complain about Peter
(16) Lorenzi, did he tell you what Peter Lorenzi
(17) said to him?

(18) **A. Not exactly.**

(19) Q. What do you recall him saying?

(20) **A. Well, I recall he was offended**
(21) **and he reacted towards it.**

(22) Q. What I'm asking is what did
(23) Kevin Campbell say to you? Did he go into
(24) your office and say, hey, I'm annoyed at
(25) Peter and not tell you what the issue was,

(1) F. ONTANEDA

(2) or did he walk into your office and say,
(3) hey, Peter called me Trayvon, I want you to
(4) do something about this? Can you give me
(5) any information about what you're claiming
(6) Kevin said to you in your office when he
(7) initially complained?

(8) **A. I honestly don't remember**
(9) **exactly what was said. I don't remember**
(10) **exactly.**

(11) Q. Did he tell you about the
(12) Trayvon comment at that time? Do you
(13) recall?

(14) **A. I don't recall.**

(15) Q. And you remember then going
(16) into Eric Wanders's office; is that
(17) correct?

(18) **A. Yes.**

(19) Q. Was it that same day.

(20) **A. Yes.**

(21) Q. What did you say to Eric
(22) Wanders?

(23) **A. That something was brought to**
(24) **my attention and I had to get statements**
(25) **from both parties.**

(1) **F. ONTANEDA**

(2) Q. What did Eric say?

(3) A. He directed me to get
(4) statements and that's what I did.

(5) Q. How did you do that?

(6) A. I requested a statement from
(7) Kevin Campbell, and I requested a statement
(8) from Peter Lorenzi.

(9) Q. Did you talk to Peter Lorenzi
(10) about these accusations?

(11) A. I asked him for a statement,
(12) yes.

(13) Q. Do you recall what Peter said
(14) in the statement? Did he deny these
(15) allegations?

(16) A. I would have to look at the
(17) statement. I don't recall exactly.

(18) Q. Do you know whether other
(19) people found out about this complaint that
(20) Kevin made about Peter Lorenzi?

(21) **MR. McGAHA: Object to form.**

(22) A. I don't know.

(23) Q. Kevin says that after he
(24) complained about Peter Lorenzi -- well,
(25) just go down to Paragraph 39 and read that

(1) F. ONTANEDA

(2) to yourself. Let me know when you are
(3) done.

(4) **A. Okay.**

(5) Q. This says that, "After Campbell
(6) filed the discrimination complaint against
(7) Lorenzi, other workers began openly
(8) referring to Campbell as a snitch." It
(9) says that, right?

(10) **A. Yes.**

(11) Q. Do you know if that's true?

(12) **A. I was not there.**

(13) Q. Well, did you ever tell anyone
(14) else about what Kevin said about Lorenzi?

(15) **A. No.**

(16) Q. Were you required to keep
(17) Kevin's complaint confidential?

(18) **A. Yes.**

(19) Q. Did you keep it confidential?

(20) **A. Yes.**

(21) Q. I want to ask you about some
(22) other comments. Can you go down to
(23) Paragraph 42 please, and just read it to
(24) yourself. Let me know when you are done.

(25) **A. Okay. Done.**

(1) **F. ONTANEDA**

(2) Q. In this paragraph do you see
(3) the part where it says, open quote, Kevin,
(4) how is your new TV, closed quote?

(5) **A. I see it.**

(6) Q. Kevin alleges here that Rob the
(7) mechanic made that comment to Campbell,
(8) correct?

(9) **A. I was not there. I don't**
(10) **remember.**

(11) Q. I'm asking what you this
(12) complaint says?

(13) **A. You're asking me what the**
(14) **complaint says. So that's what this says**
(15) **in this statement, yes.**

(16) Q. Right. Do you believe that
(17) this is a racist statement?

(18) **A. I don't know the context. I**
(19) **was not there.**

(20) Q. What race is Rob the mechanic?

(21) **A. White.**

(22) Q. What race is Kevin Campbell?

(23) **A. Black.**

(24) Q. Do you know whether certain
(25) people were alleging that there were riots

(1) F. ONTANEDA

(2) in New York City during the Summer of 2020?

(3) **MR. McGAHA: Object to form.**

(4) **A. Can you repeat that question?**

(5) Q. Do you know whether certain
(6) people were alleging that there were riots
(7) in New York City during the Summer of 2020?

(8) **A. I don't know.**

(9) Q. You don't know -- do you know
(10) whether people were saying that certain
(11) people were looting in New York City during
(12) the Summer of 2020?

(13) **A. I don't know.**

(14) Q. Given the fact Rob the mechanic
(15) is white and Kevin Campbell is black and
(16) they were at work, do you believe it is
(17) offensive or not for Rob the mechanic to
(18) have said, Kevin, how is your new TV?

(19) **MR. McGAHA: Object to form.**

(20) **A. I don't know the context of it.**

(21) Q. So this, Paragraph 42 -- you're
(22) telling me Paragraph 42 does not provide
(23) you with context?

(24) **A. I don't know the context of it.**

(25) Q. It was a yes or no question.

(1) F. ONTANEDA

(2) Do you believe Paragraph 42 provides
(3) context?

(4) **A. No.**

(5) Q. What do you believe is missing
(6) from Paragraph 42?

(7) **A. How can I talk on that? I**
(8) **don't know. I was not there.**

(9) Q. Well, you're are the one who
(10) said you don't know what the context is, so
(11) I'm asking you what you believe is missing
(12) from this paragraph.

(13) **MR. McGAHA: Object to form.**

(14) **A. Again, I was not there. I**
(15) **don't know what was said.**

(16) Q. Paragraph 42 provides an
(17) account of was said, does it not?

(18) **A. I read the statement, but I**
(19) **don't know what happened. I was not there**
(20) **at the moment.**

(21) Q. As a manager at FedEx, is it
(22) your testimony that you are unable to make
(23) an assessment as to whether what is
(24) described in Paragraph 42 is racist?

(25) **A. It depends. It has to be**

(1) **F. ONTANEDA**

(2) **investigated.**

(3) Q. And as you sit here right now,
(4) you can't tell me whether you think what is
(5) described in Paragraph 42 is inappropriate,
(6) right?

(7) **MR. McGAHA: Object to form.**

(8) **A. Can you repeat that? I'm**
(9) **sorry.**

(10) **MS. MASSIMI: Can you read it**
(11) **back please, sir.**

(12) **(Whereupon, the referred to**
(13) **question was read back by the**
(14) **Reporter.)**

(15) **A. I was not there, so I can't**
(16) **really talk on it. I don't know.**

(17) Q. Well, let me ask you this: An
(18) employee reports -- an employee is supposed
(19) to report discrimination to their manager,
(20) correct?

(21) **A. Yes.**

(22) Q. Kevin Campbell reported
(23) discrimination to you from Peter Lorenzi,
(24) correct?

(25) **A. Based on the investigation,**

(1) **F. ONTANEDA**

(2) **yes.**

(3) Q. You were not present for what
(4) Kevin Campbell alleged, correct?

(5) **A. I was not present.**

(6) Q. Right. Okay. So you don't
(7) have to be present for something in order
(8) to form an assessment of it, correct?

(9) **A. Correct.**

(10) Q. So you were not present for
(11) what is described in Paragraph 42, correct?

(12) **A. I was not present.**

(13) Q. And is it still your testimony
(14) that you are unable to provide an
(15) assessment as to whether what is described
(16) in Paragraph 42 is inappropriate because
(17) you were not there?

(18) **A. Correct. I was not there. I**
(19) **don't know the context of it.**

(20) Q. Well I'm -- there was -- there
(21) is no other context. I'm asking you based
(22) on the context, only the context that's
(23) provided in Paragraph 42 whether you are
(24) able to tell me that this -- that this is
(25) inappropriate or not?

(1) F. ONTANEDA

(2) A. I can't make an assumption.
(3) It's -- this has to be investigated. I
(4) mean, use our resources, HR. We go from
(5) there. I was not there at that moment. I
(6) don't know.

(7) Q. As a person, do you believe
(8) that this comment is inappropriate given
(9) the context that is described here?

(10) MR. McGAHA: Object to form.

(11) A. Again, I don't know. I don't
(12) know the context of it.

(13) Q. What leads you to believe there
(14) is more context beyond what is described in
(15) Paragraph 42?

(16) A. I don't know. I was not there
(17) during that situation. I can't speak on
(18) it. Like --

(19) Q. So you can't form an assessment
(20) about things that you were not present for,
(21) right?

(22) A. Yes. Correct.

(23) Q. That's your testimony?

(24) A. Yes.

(25) Q. Can you please take a look at

(1) F. ONTANEDA

(2) 43 and read that to yourself? Actually,
(3) read 43 and 44 to yourself please and just
(4) let me know when you're done.

(5) **A. Okay.**

(6) Q. Have you now had an opportunity
(7) to read the context -- contents of
(8) Paragraph 43 and 44 of the complaint?

(9) **A. I've read it.**

(10) Q. Are you able to tell me as a
(11) human being whether you believe this -- the
(12) allegations contained here describe racism
(13) or inappropriate conduct?

(14) **A. I was not there when this was**
(15) **said, so I don't -- I don't know.**

(16) Q. And is it your testimony that
(17) because you were not there, you are unable
(18) to tell me whether this is describing
(19) racism?

(20) **A. Yes.**

(21) Q. Can you just take a look at the
(22) -- just read Paragraph 50 to yourself?

(23) **A. Fifty?**

(24) Q. Please. Please, yeah, and let
(25) me know when you are done, please.

(1) F. ONTANEDA

(2) **A. Okay.**

(3) Q. Are you able to tell me as a
(4) manager of FedEx whether what is described
(5) in Paragraph 50 is racist?

(6) **A. I would have to investigate and**
(7) **follow up with HR.**

(8) Q. As a human being, are you able
(9) to tell me whether you believe what is
(10) described here is racist commentary?

(11) **A. It would have to be**
(12) **investigated. I would have to follow up**
(13) **with HR if someone brought it to my**
(14) **attention.**

(15) Q. Even if no one brought this to
(16) your attention, reading it here now, do you
(17) believe that this is a racist statement
(18) that's quoted here?

(19) **A. I don't know the context of it.**
(20) **I don't.**

(21) Q. Do have you reason to believe
(22) that there is context beyond what is
(23) contained here in this paragraph?

(24) **A. No. I would have to**
(25) **investigate it. No.**

(1) **F. ONTANEDA**

(2) Q. And if your investigation
(3) turned up that there was no other context
(4) other than what is written here, would you
(5) form a conclusion that this is a racist
(6) comment?

(7) A. I would -- I would refer to HR.
(8) I would have to investigate it and follow
(9) up with HR.

(10) Q. And then HR would tell you
(11) whether this was racist?

(12) A. No. I mean, I would -- I would
(13) gather information and use my resources and
(14) then follow up with -- with -- with the
(15) statements.

(16) Q. So you don't know whether this
(17) is racist, right?

(18) A. No, I don't know.

(19) Q. Same with Paragraph 51. Can
(20) you please read that to yourself and let me
(21) know when you're done?

(22) A. Okay.

(23) Q. Is what is described in
(24) Paragraph 51 an example of racism?

(25) **MR. McGAHA: Object to form.**

(1) **F. ONTANEDA**

(2) **A. I don't know. I don't know the**
(3) **context of this.**

(4) Q. Can you go back to Paragraph
(5) 50, please. The description and statements
(6) contained in Paragraph 50, is that racial
(7) discrimination?

(8) **A. I don't know. I was not there.**

(9) Q. Is it racial harassment?

(10) **MR. McGAHA: Object to form.**

(11) **A. I don't know. I wasn't there.**

(12) Q. Do you -- sorry. Do you know
(13) why Kevin Campbell was fired?

(14) **A. I don't know.**

(15) Q. You did not witness the
(16) incident between him and Alsate, correct?

(17) **A. No.**

(18) Q. Have you ever experienced
(19) racism?

(20) **A. Not that I recall.**

(21) Q. I am not just asking at work.
(22) I am asking at any point in your life, have
(23) you experienced race?

(24) **A. Not that I recall.**

(25) Q. Do you believe that racism is a

(1) F. ONTANEDA

(2) problem in America?

(3) A. There is racism, yes.

(4) Q. What's your -- what's your
(5) understanding of the racism?

(6) A. Discrimination or unjust on a
(7) -- based on age, disability, ethnic group.

(8) Q. Well, what I'm asking is -- my
(9) question was do you believe whether racism
(10) is a problem in America, and I believe you
(11) said there is racism. Are you saying there
(12) is racism in America?

(13) A. Yes.

(14) Q. What kind of racism in America
(15) are you referring to?

(16) A. Discrimination on everything,
(17) discrimination, racism, yeah.

(18) Q. Racism against who?

(19) A. Race, ethnic group.

(20) Q. Do you believe white people are
(21) targets of racism?

(22) A. Everyone is.

(23) MS. MASSIMI: Okay. I don't
(24) have any other questions.

(25) MR. McGAHA: No questions.

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F. ONTANEDA

MS. MASSIMI: Okay. Thank you.

THE WITNESS: Thank you.

**(Whereupon, at 11:34 A.M., the
Examination of this witness was
concluded.)**

° ° ° °

(1) F. ONTANEDA

(2) D E C L A R A T I O N

(3)

(4) I hereby certify that having been
(5) first duly sworn to testify to the truth, I
(6) gave the above testimony.

(7)

(8) I FURTHER CERTIFY that the foregoing
(9) transcript is a true and correct transcript
(10) of the testimony given by me at the time
(11) and place specified hereinbefore.

(12)

(13)

(14)

(15) -----
FRANK ONTANEDA

(16)

(17)

(18) Subscribed and sworn to before me
(19) this _____ day of _____ 20____.

(20)

(21)

(22) -----
NOTARY PUBLIC

(23)

(24)

(25)

(1) F. ONTANEDA

(2) E X H I B I T S

(3)

(4) PLAINTIFF EXHIBITS

(5)

(6) EXHIBIT EXHIBIT PAGE

(7) NUMBER DESCRIPTION

(8) 1 Complaint 51

(9)

(10) (Exhibit retained by Court Reporter.)

(11)

(12) I N D E X

(13)

(14) EXAMINATION BY PAGE

(15) MS. MASSIMI 6

(16)

(17)

(18) INFORMATION AND/OR DOCUMENTS REQUESTED

(19) INFORMATION AND/OR DOCUMENTS PAGE

(20) (None)

(21)

(22)

(23) QUESTIONS MARKED FOR RULINGS

(24) PAGE LINE QUESTION

(25) (None)

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March 1, 2024

(1) F. ONTANEDA
(2) C E R T I F I C A T E
(3)

(4) STATE OF NEW YORK)
: SS.:
(5) COUNTY OF NASSAU)
(6)

(7) I, PAUL R. HARRIS, a Notary Public
(8) for and within the State of New York, do
(9) hereby certify:
(10) That the witness whose examination is
(11) hereinbefore set forth was duly sworn and
(12) that such examination is a true record of
(13) the testimony given by that witness.

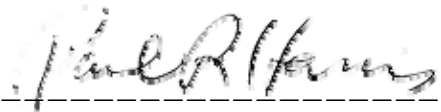
(14) I further certify that I am not
(15) related to any of the parties to this
(16) action by blood or by marriage and that I
(17) am in no way interested in the outcome of
(18) this matter.

(19) IN WITNESS WHEREOF, I have hereunto
(20) set my hand this 16th day of March 2024.

(21)

(22)

(23)



PAUL R. HARRIS

(24)

(25)

March 1, 2024

ERRATA SHEET FOR: FRANK ONTANEDA

FRANK ONTANEDA, being duly sworn, deposes and says: I have reviewed the transcript of my proceeding taken on 03/01/2024. The following changes are necessary to correct my testimony.

PAGE	LINE	CHANGE	REASON
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This image shows a full page of handwriting practice paper. It features multiple rows of horizontal dashed lines for letter height guidance. Vertical solid lines divide the page into four equal-width columns. The first column is narrow, while the other three are wider and identical in width. This layout is designed to help learners practice consistent letter formation and alignment across different parts of the page.

Witness Signature: _____

Subscribed and sworn to, before me
this ____ day of _____, 20 ____.

(NOTARY PUBLIC) MY COMMISSION EXPIRES

March 1, 2024

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A				
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